

# Notice of Allowability

Application No.

10/075,747

Examiner

Deborah K. Ware

Applicant(s)

GROWCOCK ET AL.

Art Unit

1651

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/19/04.
2. ☒ The allowed claim(s) is/are 52-57 and 60-65.
3. ☒ The drawings filed on 14 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 8/10/04.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

DAVID M. NAFF  
PRIMARY EXAMINER  
ART UNIT 128

## EXAMINER'S AMENDMENT

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 52-57 and 60-65, drawn to a vermiculture, classified in class 424, subclass 93.7.
- II. Claim 59, drawn to a vermicast and biodegraded drill cuttings, classified in class 435, subclass 262.

The inventions are distinct, each from the other because of the following reasons:

Group I and Group II are different and distinct one from the other because drill cuttings are not required of the vermiculture of Group I and the ingredients of Group I are not required of the composition of Group II. Therefore, there is **two way distinctness between the two groups** and further there is sufficient **serious** burden placed upon the examiner as indicated by the different places of classification in the art.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Michelle Replogle on August 4, 2004, a provisional election was made without traverse to prosecute the invention of I, claims 52-57 and 60-65. Claim 59 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In the title

Changed the title to – VERMICULTURE COMPOSITIONS-- .

Authorization for this examiner's amendment was given in a telephone interview with Michelle Replogle on August 10, 2004.

The application has been amended as follows:

In the claims

Canceled claims 25-51 and 59 while Applicants maintain their right to file one or more divisional applications drawn to the non-elected subject matter.

Claim 52, deleted in each line each occurrence of “;” and inserted --,-- in places thereof,

Further, at lines 2-3 deleted “wherein the oil contaminated solids include a solid material coated with” ;

Claim 60, line 2, deleted “and” and “wherein the oil”,

, line 3, deleted “contaminated solids include a solid material;”,

, line 4, deleted each first and second occurrence of “;” and inserted --,--  
and after “a non-oleagionous phase” inserted --containing a salt of a biodegradable  
anion -- and after the only occurrence of “and” deleted the “,” ;

Claim 64, line 2, deleted “a)”


, line 3, deleted second occurrence of “and”,  
 , line 4, deleted “wherein the oil contaminated solids include: a solid  
material;”,  
 , line 5, deleted “;” and inserted --,--,  
 , line 6, after “anion” deleted “;” and inserted --,-- and further deleted  
“and,” and after “an emulsifying agent” deleted “;” and inserted --, a bulking agent, and a  
compostable nitrogen source.--,  
 , line 7, canceled.  
 , line 8, canceled.


Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Deborah K. Ware whose telephone number is 571-272-  
0924. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s  
supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number  
for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Deborah K. Ware  
August 20, 2004

  
DAVID M. NAFF  
PRIMARY EXAMINER  
ART UNIT 1651